

**REMARKS**

Claims 1-16 are pending in this application. Claims 17-18 have been added to further recite applicants' invention. It is respectfully submitted that these newly added claims are supported by the application as filed (including specification, claims abstract of the invention and drawings) and that no new matter has been added.

***Restriction Requirement***

The Examiner restricted prosecution as to the following groups:

- I. Claims 1 and 2, drawn to Fe(III) complex comprising an iron cluster in a chemically inert shell wherein the iron cluster comprises an iron cluster comprises a  $\text{Fe}_4\text{O}_4$  cubane core and the inert shell comprises four iron atoms and 12 bridging pyrazolato groups, classified in class 424, subclass 1.11.
- II. Claims 3-10, drawn to compounds having the formula as set forth in independent claim 3, in class 424, subclass 1.11.
- III. Claims 11-16, drawn to a Fe(III) complex, having paramagnetic and electron transfer properties, wherein the complex comprises a metal cluster ( $\text{FeO}_4$ ) in a chemically inert shell, classified in class 424, subclass 1.11.

The Manual of Patent Examining Procedure ("MPEP") §803 sets forth the conditions under which claims may be restricted. It provides:

If the search and examination of an entire application can be made without serious burden, the

examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

**CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS**

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent or distinct as claimed; and

(B) There must be a serious burden on the examiner if restriction is required.

**GUIDELINES**

... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search...

It is respectfully submitted that the subject Office Action fails to meet these requirements. Specifically, the subject Office Action admits that all claims are properly classified not only in the same class, but also in the exact same subclass. Since there are only seventeen claims now pending in the application (when applicants are entitled to request the examination of twenty without additional charge), it is further and respectfully submitted that the examination of all such claims would not present a serious burden as required by the MPEP.

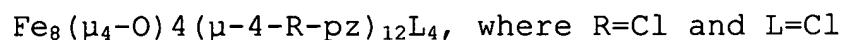
Moreover, newly added claim 17, which depends from claim 11 in group III, recites the same subject matter as

claim 3 in group II. (It differs in scope only by virtue of the elements recited in the base claim 11.) In view of the substantially commonality between these claims, it is further and respectfully submitted that the examination of at least these two groups would not present a substantial burden.

Subject to and without waiving the above traverse, applicants elect group III (claims 11-16, along with newly added claims 17-18).

***Election of Species***

The Examiner further required an election of species. Applicants elect the following species:



Claims 11, 12, 13, 14, 17 and 18 read on this elected species.

At this time, this election of species requirement is traversed because R and L may be substituted as set forth in the specification. Provided a compound meets the other elements recited in claim 11, the substitution of R and L by other elements or compounds as set forth in the

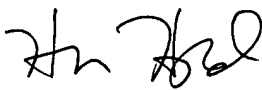
specification is an obvious variant. This includes the variants set forth in claims 15 and 16.

**Conclusion**

In view of the forgoing, it is respectfully submitted that all claims now pending in the application should be examined on the merits. The Examiner's further consideration and favorable action are respectfully requested.

Respectfully Submitted,

Date: 9/28/04

By:   
Heath W. Hoglund  
Reg. No. 41,076  
256 Eleanor Roosevelt Street  
San Juan, PR 00918  
Telephone: 787-772-9200  
Facsimile: 787-772-9533